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**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

DONNA RATLIFF, individually and on behalf of all others similarly situated,) Case No. 2:16-cv-00253-GW-JEM

Plaintiff,)

vs.)

SOUTHERN CALIFORNIA)
 HEALTHCARE SYSTEM, INC., DBA)
 SOUTHERN CALIFORNIA)
 HOSPITAL AT CULVER CITY)

Defendant.)

CLASS ACTION

**PLAINTIFF'S SECOND AMENDED
 COMPLAINT FOR VIOLATIONS
 OF:**

1. NEGLIGENT VIOLATIONS
 OF THE TELEPHONE
 CONSUMER PROTECTION
 ACT [47 U.S.C. §227 ET
 SEQ.]
2. WILLFUL VIOLATIONS
 OF THE TELEPHONE
 CONSUMER PROTECTION
 ACT [47 U.S.C. §227 ET
 SEQ.]

DEMAND FOR JURY TRIAL

Plaintiff Donna Ratliff ("Plaintiff"), individually and on behalf of all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

///

NATURE OF THE CASE

1. Plaintiff brings this action individually and on behalf of all others similarly situated seeking damages and any other available legal or equitable remedies resulting from the illegal actions of Southern California Healthcare System, Inc., dba Southern California Hospital at Culver City (“Defendant”) in negligently, knowingly, and/or willfully contacting Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection Act, 47. U.S.C. § 227 *et seq.* (“TCPA”), thereby invading Plaintiff’s privacy.

JURISDICTION & VENUE

2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff, a resident of California, seeks relief on behalf of a Class, which, upon information and belief, will result in at least one class member belonging to a different state than that of Defendant, a company with its principal place of business and State of Incorporation in Delaware. Plaintiff also seeks up to \$1,500.00 in damages for each call in violation of the TCPA, which, when aggregated among a proposed class in the thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both diversity jurisdiction and the damages threshold under the Class Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

3. Venue is proper in the United States District Court for the Central District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a) because Defendant does business within the County of Los Angeles and the Central District of California.

PARTIES

4. Plaintiff, Donna Ratliff (“Plaintiff”), is a natural person residing in Los Angeles, California and is a “person” as defined by 47 U.S.C. § 153 (10).

5. Defendant, Southern California Healthcare System, Inc., dba Southern California Hospital at Culver City (“Defendant”), is a Southern California hospital

1 and care facility, and is a “person” as defined by 47 U.S.C. § 153 (10).

2 **FACTUAL ALLEGATIONS**

3 6. At various and multiple times prior to the filing of the instant
4 Complaint, including within the one year preceding the filing of this Complaint,
5 Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

6 7. On or about August 26, 2015, Defendant contacted Plaintiff on her
7 cellular telephone in an attempt to collect an alleged outstanding debt stemming
8 from medical services rendered.

9 8. As an illustrative example (and not one of limitation), Defendant
10 contacted or attempted to contact Plaintiff on or about August 26, 2015 at 12:34
11 p.m., and on or about August 31, 2015 at 6:11p.m.

12 10. Defendant used an “automatic telephone dialing system”, as defined
13 by 47 U.S.C. § 227(a)(1) to place its daily calls to Plaintiff seeking to collect the
14 debt allegedly owed.

15 11. Furthermore, Defendant utilized a prerecorded voice when leaving
16 the message for Plaintiff, as prohibited by 47 U.S.C. §227(1)(A)(i).

17 12. As an illustrative example (and not one of limitation), Defendant left
18 the following voicemail using a prerecorded voice:

19
20 This is Patient Accounting Department of Southern California
21 Hospital at Culver City, calling regrading a personal business matter
22 for Donna Lynn Ratliff. Please contact us at your earliest
23 convenience. You may reach us Monday through Friday 8 a.m. to
24 5:30 p.m. at 1(800) 404-6627. Please use reference number
25 5001168850001 when calling. If we have reached this number in
26 error, please contact us 1(800) 404-6627, so we can remove your
27 phone number from our records. We appreciate the opportunity to
28 serve you, and are available to speak with you should any questions
arise. Again, this is the Patient Department of Southern California
Hospital at Culver City, calling regarding a personal business matter
for Donna Lynn Ratliff. Please contact us at your earliest
convenience. You may reach us Monday through Friday 8 a.m. to

1 5:30 p.m. at 1(800) 404-6627. Please use reference number
2 5001168850001 when calling. If we have reached this number in
3 error, please contact us 1(800) 404-6627, so we can remove your
4 phone number from our records. We appreciate the opportunity to
5 serve you, and are available to speak with you should any questions
6 arise. Thank you and goodbye.

7 13. Defendant's calls constituted calls that were not for emergency
8 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

9 14. Defendant's calls were placed to telephone number assigned to a
10 cellular telephone service for which Plaintiff incurs a charge for incoming calls
11 pursuant to 47 U.S.C. § 227(b)(1).

12 15. Multiple times Plaintiff would answer Defendant's calls and tell
13 Defendant to stop contacting Plaintiff. Plaintiff even instructed her attorney to
14 contact Defendant and instruct it not to place any further calls to Plaintiff's cell
15 phone. Defendant's employees assured Plaintiff's attorney that no more bills or
16 collection efforts would be made to Plaintiff, but in fact, Defendant continued to
17 place automated/prerecorded calls to Plaintiff's cell phone. As such, Defendant did
18 not possess Plaintiff's "prior express consent" to receive calls using an automatic
19 telephone dialing system or an artificial or prerecorded voice on her cellular
20 telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

21 16. As a result of the above violations of the TCPA, Defendant is liable to
22 Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's
23 fees.

24 **CLASS ALLEGATIONS**

25 17. Plaintiff brings this action individually and on behalf of all others
26 similarly situated, as a member of the proposed class (hereafter "The Class")
27 defined as follows:
28

1 All persons within the United States who received any
2 collection telephone calls from Defendant to said
3 person's cellular telephone made through the use of any
4 automatic telephone dialing system or an artificial or
5 prerecorded voice and such person had previously
6 revoked consent to receiving such calls within the four
7 years prior to the filing of this Complaint

8 18. Plaintiff represents, and is a member of, The Class, consisting of all
9 persons within the United States who received any collection telephone calls from
10 Defendant to said person's cellular telephone made through the use of any
11 automatic telephone dialing system or an artificial or prerecorded voice and such
12 person had not previously not provided their cellular telephone number to
13 Defendant within the four years prior to the filing of this Complaint.

14 19. Defendant, its employees and agents are excluded from The Class.
15 Plaintiff does not know the number of members in The Class, but believes the Class
16 members number in the thousands, if not more. Thus, this matter should be
17 certified as a Class Action to assist in the expeditious litigation of the matter.

18 20. The Class is so numerous that the individual joinder of all of its
19 members is impractical. While the exact number and identities of The Class
20 members are unknown to Plaintiff at this time and can only be ascertained through
21 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
22 The Class includes thousands of members. Plaintiff alleges that The Class
23 members may be ascertained by the records maintained by Defendant.

24 21. Plaintiff and members of The Class were harmed by the acts of
25 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
26 and Class members via their cellular telephones thereby causing Plaintiff and Class
27 members to incur certain charges or reduced telephone time for which Plaintiff and
28 Class members had previously paid by having to retrieve or administer messages
left by Defendant during those illegal calls, and invading the privacy of said

1 Plaintiff and Class members.

2 22. Common questions of fact and law exist as to all members of The
3 Class which predominate over any questions affecting only individual members of
4 The Class. These common legal and factual questions, which do not vary between
5 Class members, and which may be determined without reference to the individual
6 circumstances of any Class members, include, but are not limited to, the following:

- 7 a. Whether, within the four years prior to the filing of this
8 Complaint, Defendant made any collection call (other than a
9 call made for emergency purposes or made with the prior
10 express consent of the called party) to a Class member using
11 any automatic telephone dialing system or any artificial or
12 prerecorded voice to any telephone number assigned to a
13 cellular telephone service;
- 14 b. Whether Plaintiff and the Class members were damages
15 thereby, and the extent of damages for such violation; and
- 16 c. Whether Defendant should be enjoined from engaging in such
17 conduct in the future.

18 23. As a person that received numerous collection calls from Defendant
19 using an automatic telephone dialing system or an artificial or prerecorded voice,
20 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
21 typical of The Class.

22 24. Plaintiff will fairly and adequately protect the interests of the members
23 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
24 class actions.

25 25. A class action is superior to other available methods of fair and
26 efficient adjudication of this controversy, since individual litigation of the claims
27 of all Class members is impracticable. Even if every Class member could afford
28 individual litigation, the court system could not. It would be unduly burdensome

1 to the courts in which individual litigation of numerous issues would proceed.
 2 Individualized litigation would also present the potential for varying, inconsistent,
 3 or contradictory judgments and would magnify the delay and expense to all parties
 4 and to the court system resulting from multiple trials of the same complex factual
 5 issues. By contrast, the conduct of this action as a class action presents fewer
 6 management difficulties, conserves the resources of the parties and of the court
 7 system, and protects the rights of each Class member.

8 26. The prosecution of separate actions by individual Class members
 9 would create a risk of adjudications with respect to them that would, as a practical
 10 matter, be dispositive of the interests of the other Class members not parties to such
 11 adjudications or that would substantially impair or impede the ability of such non-
 12 party Class members to protect their interests.

13 27. Defendant has acted or refused to act in respects generally applicable
 14 to The Class, thereby making appropriate final and injunctive relief with regard to
 15 the members of the Class as a whole.

16 **FIRST CAUSE OF ACTION**

17 **Negligent Violations of the Telephone Consumer Protection Act**

18 **47 U.S.C. §227 et seq.**

19 28. Plaintiff repeats and incorporates by reference into this cause of
 20 action the allegations set forth above at Paragraphs 1-27.

21 29. The foregoing acts and omissions of Defendant constitute numerous
 22 and multiple negligent violations of the TCPA, including but not limited to each
 23 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

24 30. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
 25 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
 26 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

27 31. Plaintiff and the Class members are also entitled to and seek
 28 injunctive relief prohibiting such conduct in the future.

1 **SECOND CAUSE OF ACTION**

2 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
3 **Act**

4 **47 U.S.C. §227 et seq.**

5 32. Plaintiff repeats and incorporates by reference into this cause of
6 action the allegations set forth above at Paragraphs 1-30.

7 33. The foregoing acts and omissions of Defendant constitute numerous
8 and multiple knowing and/or willful violations of the TCPA, including but not
9 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*
10 *seq.*

11 34. As a result of Defendant's knowing and/or willful violations of *47*
12 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
13 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*
14 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

15 35. Plaintiff and the Class members are also entitled to and seek
16 injunctive relief prohibiting such conduct in the future.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

19 **FIRST CAUSE OF ACTION**

20 **Negligent Violations of the Telephone Consumer Protection Act**

21 **47 .S.C. §227 et seq.**

22 36. As a result of Defendant's negligent violations of *47 U.S.C.*
23 *§227(b)(1)*, Plaintiff and the Class members are entitled to and request \$500 in
24 statutory damages, for each and every violation, pursuant to *47 U.S.C.*
25 *227(b)(3)(B)*.

26 37. Any and all other relief that the Court deems just and proper.

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28 ///

SECOND CAUSE OF ACTION

**Knowing and/or Willful Violations of the Telephone Consumer Protection
Act**

47 .S.C. §227 et seq.

38. As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).

39. Any and all other relief that the Court deems just and proper.

Respectfully Submitted this 28th Day of April, 2016.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman
Todd M. Friedman
Law Offices of Todd M. Friedman
Attorney for Plaintiff

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business Address is 324 S. Beverly Dr., #725, Beverly Hills, CA 90212.

On April 28, 2016, I served the following document(s) described as: **PLAINTIFF'S SECOND AMENDED COMPLAINT** on all interested parties in this action by placing:

☒ A true copy

☐ BY FACSIMILE – The facsimile machine used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2008(e)(4), caused the machine to print a record of the transmission.

☐ BY ELECTRONIC SERVICE – I transmitted a PDF version of this document by electronic mail to the party(s) identified above using the e-mail address(es) indicated.

☒ CM/ECF - by transmitting electronically the document(s) listed above to the electronic case filing system on this date before 11:59 p.m. The Court's CM/ECF system sends an e-mail notification of the filing to the parties and counsel of record who are registered with the Court's CM/ECF system.

☒ STATE – I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 28, 2016, at BEVERLY HILLS, California.

By: /s Todd M. Friedman